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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/602,966	06/24/2003	Gerald Goche	P027598-01UT	2052
26376	7590	10/28/2004	EXAMINER	
DENNIS L. COOK, ESQ. THE LAW OFFICES OF DENNIS L COOK PLLC 12718 DUPONT CIRCLE TAMPA, FL 33626			NGUYEN, TRAN N	
			ART UNIT	PAPER NUMBER
			2834	

DATE MAILED: 10/28/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/602,966	<b>Applicant(s)</b> GOCHE, GERALD	
	<b>Examiner</b> Tran N. Nguyen	<b>Art Unit</b> 2834	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☐ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,2,4-8,11,12 and 15-116 is/are rejected.
- 7) ☐ Claim(s) 3,9,10,13,14,17 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |  |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____  |

## DETAILED ACTION

### *Priority*

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### *Claim Objections*

**Claims 19-22** are objected to because of the following:

The method claimed language in these claims does **not** recite the step-by-step method of making as single or a multiphase motor/generator but *rather reciting the structural relationship between the main windings and the additional windings with capacitors*. **Thus, claims 19-22 are treated as structural claims instead of method claims.**

**Suggestion:** the term “method of construction of” and “the steps of” should be deleted.

Appropriate correction is required.

### *Claim Rejections - 35 USC § 112*

2. **Claims 1, 23 and 4-5** are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

**Claims 1 and 23** “An alternating current electrical motor, comprising at least a single phase or a multiphase motor with at least three phases or a synchronous generator with at least two poles or more” is indefinite because of the alternative recitation.

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In light of the spec, it is understood as "An alternating current electrical machine, wherein said machine is one of at least single phase motor and a synchronous generator with at least two poles"

**Claims 4 and 5** recite the winding process of alternating current motor and the process of calculation of additional winding capacitor value of an alternating current electric motor are indefinite because these claim depend from claim 1 that is a structural claim. The recitation of the process claimed language does not further limits the structural limitation of the independent claim 1.

Thus, claim 4 and 5 are not being considered on the merit of the structural claimed invention (i.e., a "product by process" claim is directed to the product per se, no matter how actually made, *In re Brown*, 173 USPQ 685; *In re Luck*, 177 USPQ 523; *In re Fessmimn*, 180 USPQ 324; *In re Avery*, 186 USPQ 161; *In re Wertheim*, 191 USPQ 90 (209 USPQ 554 does not deal with this issue); *In re Marosi et al*, 218 USPQ 289; and particularly *In re Thorpe*, 227 USPQ 964, all of which make it clear that it is the patentability of the final product per se which must be determined in a "product by process" claim, and not the patentability of the process, and that an old or obvious product produced by a new method is not patentable as a product, whether claimed in "product by process" claims or not. Thus, the method of forming a device is not germane to the issue of patentability of the device itself.)

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

**Claims 1 (as understood), 6, 19 and 23 (as understood)** are rejected under 35 U.S.C. 102(b) as being fully anticipated by **Ross (US 1916389)**.

**Ross** discloses a single phase motor comprising:

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- (a) first and second main windings (16, 17) coupled to a main common point and first and second potential lines of a line voltage; and,
- (b) first and second additional windings (18, 19) coupled to a winding capacitor (23) and the first and second potential lines in a parallel connection with the first and second main windings, each of the first and second additional windings generating a field in opposite direction with a corresponding one of the first and second main windings (as shown in the figure).

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1 (as understood), 2, 6, 7-8, 11-12, 15-16, 19-22 and 23 (as understood)** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Roberts (US 4959573)**.

**Roberts** discloses an electrical machine which can be either a single phase motor or multiphase motor comprising:

- (a) a plurality of main phase windings, which can be connected to the source in a .DELTA. or wye configuration. The three primary phase windings W<sub>Aa'</sub>, W<sub>Ab'</sub> and W<sub>Ac'</sub> are connected to input terminals A, B and C in the wye configuration (fig 14A-14B).
- (b) a plurality of additional (i.e., secondary) winding W<sub>Ba'</sub>, W<sub>Bb'</sub> and W<sub>Bc'</sub> are part of the are connected a wye configuration and in parallel with three capacitors C<sub>Ba'</sub>, C<sub>Bb'</sub> and C<sub>Bc'</sub> that are connected in a .DELTA. configuration with respect to each other, wherein each of

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the first and second additional windings generating a field in opposite direction with a corresponding one of the first and second main windings (figs 14A-14B).

Those skilled in the art would understand that the winding are connection either in DELTA connection or star configuration is well known in the art. Selecting a suitable winding connection configuration is an obvious matter of engineering design choice. Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the Roberts' winding configuration to either delta or star winding connection. Doing so would be a matter of obvious engineering design choice that would enable an enhanced performance of the machine.

Regarding claims 2, 7-8, 12, 16,20, 22 reciting the relationship between the main wire's size and the additional wire's size, those skilled in the art would understand that selecting a suitable size for the winding requires only routine skills in the art based upon the size and shape of the stator, particularly the stator poles and their winding slots.

Thus, it would have been obvious to one skilled in the art at the time the invention was made to modify the Roberts' winding by selecting suitable wire size for the main winding and the wire size for the additional winding, as recited in the claimed invention. Doing so would provide appropriate winding amount for the main and additional windings and a change in size or shape is generally recognized as being within the level of ordinary skill in the art. *In re Rose*, 105 USPQ 237 (CCPA 1955) (emphasis added).

#### ***Allowable Subject Matter***

**Claims 3, 9-10, 13-14, and 17-18** are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

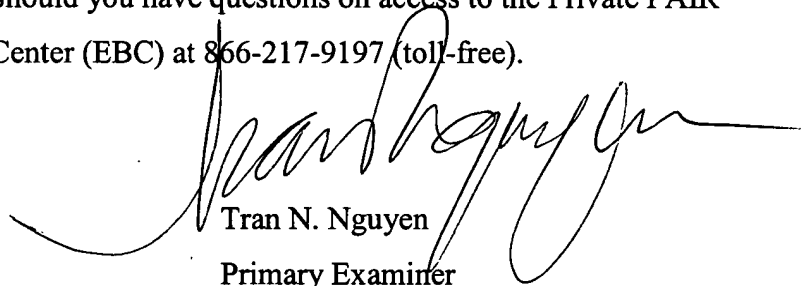
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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tran N. Nguyen whose telephone number is (571) 272-2030. The examiner can normally be reached on M-F 7:00AM-4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Darren Schuberg can be reached on (571)-272-2044. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'Tran N. Nguyen', is written over the printed name and title.

Tran N. Nguyen  
Primary Examiner  
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